

## REMARKS

Applicants have studied the Office Action dated November 2, 2005. By this amendment, Claims 16-19 and 31-37 have been canceled without prejudice. After this amendment, Claims 3-14, 20-22, 25-30, and 38-39, remain pending in this application. Reconsideration and allowance of the pending claims in view of the above amendments and the following remarks are respectfully requested.

First of all, the present Office Action did **not** recognize pending Claims 25-39. The present Office Action (dated November 2, 2005) indicated that Claims 3-14 and 16-22 are pending in the application. However, in Applicants' most recent response (amendment filed on May 2, 2005) the actual pending claims were Claims 3-14, 20-22, and 25-39. Please see Applicants' communication (amendment originally filed on May 2, 2005) that was submitted to the USPTO for a second time on August 5, 2005. The present Office Action was responsive to this amendment filed on May 2, 2005 (and re-submitted to the USPTO on August 5, 2005).

Secondly, the present Office Action with Restriction/Election requirement also indicated that it was responsive to the communication (amendment) filed on August 5, 2005. However, Applicants actually filed their response on May 2, 2005. The USPTO received and then lost this communication (the amendment filed on May 2, 2005). Applicants, after confirming with the USPTO that the previous communication was lost at the USPTO, re-submitted to the USPTO a copy of the previously filed response (amendment) on August 5, 2005.

While the Office Action failed to expressly identify how Claims 25-39 fall into the definitions of Group I or Group II, Applicants believe that Claims 25-30 and 38-39 fall into the definition of **Group I**.

In response to the restriction requirement under 35 U.S.C. § 121, Applicants hereby elect for continued prosecution of the **Group I claims** (i.e., Claims 3-11, 12-14, 20-22, 25-30, and 38-39, drawn to a system/method of operating a virtual jukebox using a vote process. Thus, Applicants request examination of Claims 3-11, 12-14, 20-22, 25-30, and 38-39.

To advance the prosecution of the application, Claims 16-19 and 31-37 have been canceled without prejudice or disclaimer. Applicants expressly reserve the right to file a divisional application with respect to these claims at a later date.

In view of the foregoing, it is respectfully submitted that the application and the claims are in condition for allowance. Reexamination and reconsideration of the application, as amended, are requested.

If the Examiner believes that there are any informalities that can be corrected by Examiner's amendment, or that in any way it would help expedite the prosecution of the patent application, a telephone call to the undersigned at (561) 989-9811 is respectfully solicited.

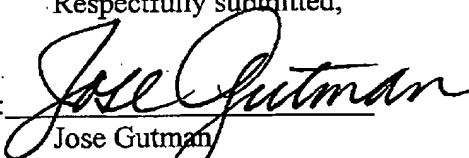
The Commissioner is hereby authorized to charge any fees that may be required or credit any overpayment to Deposit Account 50-1556.

The Examiner is respectfully requested to direct future correspondence regarding this application to the undersigned attorney at the address below.

Date: 12/2/05

Respectfully submitted,

By:



Jose Gutman

Registration No. 35,171

Attorney for Applicants

Fleit, Kain, Gibbons, Gutman, Bongini & Bianco P.L.  
551 NW 77th Street, Suite 111  
Boca Raton, Florida 33487  
Telephone: (561) 989-9811  
Facsimile: (561) 989-9812